

1
2
3
4
5
6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
9

10 UNITED STATES OF AMERICA,

11 Plaintiff,

Case No. 2:98-cr-00417-KJD-RJJ

12 v.

ORDER

13 NAJEEB RAHMAN,

14 Defendant.

15
16 Before the Court for consideration is Defendant Najeeb Rahman's Motion to Reopen the Case to
17 Determine Any Outstanding Restitution (#139, 140). The Government filed a response in opposition
18 (#143) to which the Defendant did not reply.

19 **I. Background**

20 On December 7, 1999, Defendant plead guilty to one count of Fraud and Related activity with
21 Access Devices and nine counts of Money Laundering. (#63). Judgment included an order of
22 restitution for \$247,594.42, twenty-four months of imprisonment, and supervised release for a period
23 of two years. (#63 at 2, 3, 7). Defendant's supervised release was revoked twice for continued
24 fraudulent conduct while on supervision. (#79, 95, 105).

25 On June 10, 2010, Defendant pled guilty to one count of Fraudulent Transactions with Access
26 Devices issued to Other Persons and one count of Aggravated Identity Theft. *See United States v.*

1 *Rahman*, 2:08-cr-00126-KJD-PAL. Most recently, Defendant pled guilty to one count of Conspiracy
2 to Commit Wire Fraud. *See United States v. Rahman*, 2:15-cr-00178-LDG-GWF. This judgment
3 included another order of restitution and 96 months of imprisonment. *Id.*

4 **II. Analysis**

5 Under 18 U.S.C. § 3664(o) a sentence of an order of restitution is a final verdict which may be
6 subsequently corrected, appealed, amended, or adjusted. *See* 18 U.S.C. § 3664(o)(1)(A)-(D).

7 An order of restitution may be corrected pursuant to Fed. R. Crim. P. 35 and 18 U.S.C. § 3742.
8 18 U.S.C. § 3664(o)(1)(A). Rule 35(a) states that a court may correct a sentence that resulted from
9 arithmetical, technical, or other clear error within 14 days of sentencing. *See* Fed. R. Crim. P. 35.
10 When the time to correct the error has passed, the district court loses jurisdiction to correct the
11 sentence. *See United States v. Morales*, 328 F.3d 509, 512 (9th Cir. 2003). Here, the exception under
12 Rule 35 is unavailable as Defendant's sentencing was over fifteen years ago.

13 An order of restitution may be appealed pursuant to 18 U.S.C. § 3742. *See* 18 U.S.C. §
14 3664(o)(1)(B). Section 3742 allows for the review of a sentence if the defendant files a notice of
15 appeal. Here, the Defendant has not filed a notice of appeal. Further, the Defendant's opportunity to
16 appeal has passed as the order of restitution was entered fifteen years ago and a defendant's notice of
17 appeal must be filed within fourteen days of the entry of judgment. *See* Fed. R. App. P. 4(b).

18 An order of restitution may be amended under 18 U.S.C. § 3664(d)(5) if the victim subsequently
19 discovers further loss after the entry of the judgment. 18 U.S.C. § 3664(o)(1)(C). There are no such
20 allegations here.

21 Section 3664(k) allows for adjustment of a restitution order based on any material change in a
22 defendant's economic circumstances that may affect the ability to pay restitution. 18 U.S.C. §
23 3664(o)(1)(C). Presently, there has been no notification of a change in economic circumstances.

24 Defendant's Motion to Reopen the Case (#139) states that this Court ordered the government to
25 provide a "proof of claim" from any or all alleged victims, however the record is devoid of any such
26 order. Further, this Court has held restitution punishments are not primarily for the benefit of victims,

1 but for the benefit of society as a whole. *See Untied States v. Tutterow*, No. 2:04-cr-01345-MMD,
2 2013 WL 1250832, at *2 (D. Nev. Mar. 27, 2013) (quoting *Kelly v. Robinson*, 479 U.S. 36, 52
3 (1986). Accordingly, the Court **denies** Defendant's Motion to Reopen the Case (#139, 140).

4 **III. Conclusion**

5 Having read and considered the present motion and response, the Court finds no support for
6 Defendant's motion. Further, Defendant fails to cite points and authority in support of the motion.
7 Pursuant to LCR 47-9, failure to cite points and authority supporting a motion constitutes consent to
8 deny the motion.

9 Accordingly, **IT IS HEREBY ORDERED** that Defendant's Motion to Reopen The Case to
10 Determine Any Outstanding Restitution (#139, 140) is **DENIED**.

11 DATED this 26th day of June 2017.

12
13 
14 Kent J. Dawson
United States District Judge
15
16
17
18
19
20
21
22
23
24
25
26